

MHV

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

08CV2649

**JUDGE ANDERSEN
MAG. JUDGE COX**

EYAD ABUNAIM

Plaintiff,

v.

A074 406 806

MICHAEL CHERTOFF,
AS THE DIRECTOR OF
THE DEPARTMENT OF HOMELAND
SECURITY, ROBERT S. MUELLER, III
AS THE DIRECTOR OF FEDERAL
BUREAU OF INVESTIGATIONS

Defendant

FILED

5-8-2008
MAY - 8 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

COMPLAINT FOR MANDAMUS

Plaintiffs, EYAD ABU NAIM, y and through, REEM H. ODEH, of the LAW OFFICES OF BRODSKY & ODEH respectfully requests this Court to enter an order directing the Defendant, MICHAEL CHERTOFF, Director of Homeland Security and ROBERT S. MUELLER III, as Director of Federal Bureau of Investigations to adjudicate Plaintiffs' application for Naturalization. In support of said request, the Plaintiffs state as follows:

JURISDICTION AND VENUE

1. The is a civil action brought pursuant to 8 U.S.C. section 1329, and 28 U.S.C. Sections 1331 (Federal Questions) because Plaintiffs' claims arise under the federal laws of the United States, and 1361 (Mandamus Act), and Section 1447(b) to redress the deprivation of rights, privileges and immunities secured to Plaintiff, by which statutes jurisdiction is conferred, to compel Defendant to perform a duty Defendant owes to Plaintiff, 5 U.S.C. section 704 also confers jurisdiction, 28 U.S.C §2201 (Declaratory Judgement Act) and under 5 U.S.C. §701 *et seq.* (Administrative Act of the "APA").
2. Venue is proper under 28 U.S.C. section 1391(b), since Defendant is the Director of the Bureau of Citizenship and Immigration Services (BCIS), an agency of the United States Government, under the Department of Homeland Security. The Defendant Robert S. Mueller III, is the Director of the federal Bureau of Investigations.
3. This action is brought to compel the defendant, officers and an agency of the United States, to perform its duties arising under the laws of the United States.

4. The APA requires USCIS and the FBI to carry out their duties within a reasonable time. The provision of the APA that provides this is 5 USC Sec. 555(b), which states that "with due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it." USCIS and FBI are subject to 5 USC Sec. 555(b). The Plaintiffs contend that the delays in processing their applications for naturalization are unreasonable.

PARTIES

5. Plaintiff Eyad Abu Naim is a citizen and native of Jordan. He became a Legal Permanent Resident of the United States on or about July 31, 1996.

6. Plaintiff's alien number is A074 406 806.

7. Defendant, MICHAEL CHERTOFF, is the Director of the Department of Homeland Security. As such, he is charged with the duty of administration and enforcement of all the functions, powers, and duties of Bureau of Citizenship & Immigration Services, the former INS. The Defendant ROBERT S. MUELLER III, is the Director of the Federal Bureau of Investigations.

8. That Robert Mueller is sued in his official capacity. The FBI is responsible for the proper background clearance conducted on each applicant for naturalization.

CLAIMS FOR RELIEF

9. On or about May 10, 2002, Plaintiff filed his applications for Naturalization and paid the appropriate filing fees and submitted all the required documentation.

10. Furthermore, on or about January 7, 2003, Plaintiff appeared for a Naturalization Interview and passed the required tests.

11. That at the conclusion of the interview, Defendant's agent or employee did not make a decision whether or not to approve Plaintiff's application although Plaintiff passed all section of the naturalization exam.

12. Prior to the filing of this Complaint, the Plaintiff has made numerous attempts with the Defendants to inquire about the status of his application. The Plaintiff and his attorneys have also made numerous oral and written requests of the Defendants concerning the scheduling of an interview for naturalization. No further action was taken by Defendants in this matter.

13. The Defendants, in violation of the Administrative Procedure Act, are unlawfully withholding or unreasonably delaying a decision on the applications of Plaintiffs.


14. Plaintiffs have exhausted any remedies that may be exist.

WHEREFORE, Plaintiffs prays that the Court, in light of the foregoing:

- A. Compel Defendant and those acting under him to perform their duty to rule upon the Plaintiff's applications;
- B. Compel the Federal Bureau of Investigation to complete their background and fingerprint process.
- B. Grant attorney's fees and cost of court
- C. Grant such other and further relief as this Court sees proper under the circumstances.

Law Offices of Brodsky & Odeh
Reem H. Odeh
8 S. Michigan, Suite 3200
Chicago, Illinois 60603
312-701-3000
312-701-3088(fax)

Respectfully Submitted,


Reem H. Odeh
Attorney for Plaintiff

Naturalization Interview Results

U.S. Department of Justice
Immigration & Naturalization Service

A#: 74 406806

On JAN 07 2003, you were interviewed by INS Officer T. Esbrook

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the test of U.S. history and government and the English language requirement was waived.
- ☐ The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak / _____ read / _____ / write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on the Form N-14.
- ☐ INS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability / _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. INS will send you a written decision about your application.

A) _____ **Congratulations! Your application has been recommended for approval.** At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for your Oath Ceremony.

B) _____ **A decision cannot yet be made about your application.**

It is very important that you :

- ✓ Notify INS if you change your address.
- ✓ Come to any scheduled interview.
- ✓ Submit all requested documents.
- ✓ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
- ✓ Go to any oath ceremony that you are scheduled to attend.
- ✓ Notify INS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.


U.S. Department of Justice
Immigration and Naturalization Service

Notice of Action

THE UNITED STATES OF AMERICA

Fingerprint Notification			NOTICE DATE June 14, 2002
CASE TYPE N400 Application For Naturalization			INS AF A 074 406 806
APPLICATION NUMBER LIN*000457307	RECEIVED DATE May 16, 2002	PRIORITY DATE May 16, 2002	PAGE 1 of 1

APPLICANT NAME AND MAILING ADDRESS
 EYAD M ABU NAIM
 c/o JEFFREY A KRIEZELMAN
 JEFFREY A. KRIEZELMAN & ASSOCIATES
 STE 725
 20 NORTH CLARK STREET
 CHICAGO IL 60602
 |||||



To process your application, INS must take your fingerprints and have them cleared by the FBI. **PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED.** If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. **RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.**

APPLICATION SUPPORT CENTER INS PULASKI 5160 S. PULASKI AVE SUPER MALL, SPACE 101 CHICAGO IL 60632	DATE AND TIME OF APPOINTMENT 07/11/2002 01:00 PM
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WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING:

1. **THIS APPOINTMENT NOTICE** and
2. **PHOTO IDENTIFICATION.** Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.

PLEASE DISREGARD THIS NOTICE IF:

1. YOU HAVE BEEN FINGERPRINTED WITHIN THE LAST 90 DAYS,
2. YOUR APPLICATION HAS ALREADY BEEN GRANTED, OR
3. YOU WERE UNDER 14 YEARS OF AGE OR OVER 79 (75 FOR NATURALIZATION APPLICANTS) AT THE TIME YOUR APPLICATION WAS FILED.

REQUEST FOR RESCHEDULING

Please reschedule my appointment for the next available: ☐ Wednesday afternoon ☐ Saturday afternoon


INS cannot guarantee the day preferred, but will do so to the extent possible.
 Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to:

INS PULASKI
 5160 S. PULASKI AVE
 SUPER MALL, SPACE 101
 CHICAGO IL 60632

If you have any questions regarding this notice, please call 1-800-375-5283.

APPLICATION NUMBER
 LIN*000457307

REPRESENTATIVE COPY



WARNING!

Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.

U.S. Department of Homeland Security
10 W. Jackson Blvd.
Chicago, IL 60604



U.S. Citizenship
and Immigration
Services

CHI 70/48.2-C

September 21, 2004

JUSTIN R. BURTON,ESQ.
Jeffery A. Kriezelman & Associates, LTD.
20 N. Clark St., Ste. 725
Chicago, IL 60602

Re: A074 406 806 - NAIM, EYAD

Dear JUSTIN BURTON,ESQ.,


Thank you for your recent inquiry. All efforts will be made to respond to your inquiry within 90 days of receipt. Depending on the complexity of your inquiry, additional time may be required to obtain the information requested.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Comfort".

Michael M. Comfort
District Director

THE UNITED STATES OF AMERICA

Receipt with Exception			NOTICE DATE June 10, 2002
CASE TYPE N400 Application For Naturalization			INS A# A 074 406 806
APPLICATION NUMBER LIN*000457307	RECEIVED DATE May 16, 2002	PRIORITY DATE May 16, 2002	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS EYAD M ABU NAIM c/o JEFFREY A KRIEZELMAN JEFFREY A. KRIEZELMAN & ASSOCIATES STE 725 20 NORTH CLARK STREET CHICAGO IL 60602 		PAYMENT INFORMATION: Single Application Fee: \$310.00 Total Amount Received: \$310.00 Total Balance Due: \$0.00	
<p>The above application has been received by our office and is in process, but has been noted with one or more of the following exception(s):</p> <p>Missing Evidence(s) - your application was missing evidence(s) that you will need to provide at the time of your naturalization interview. You will be notified under separate notice of the necessary evidence(s) that you will be required to bring to your interview. Do not submit any evidence(s) by mail.</p> <p>Our records indicate your personal information is as follows:</p> <p>Date of Birth: June 23, 1971 Address Where You Live: 9414 S 54TH AVENUE OAK LAWN IL 60453</p> <p>Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.</p> <p>You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 540 days of this notice.</p> <p>IMPORTANT NOTICE: All naturalization applicants who were between the ages of 14-75 at the time of filing must have their fingerprints taken at an INS Application Support Center (ASC) so they can be submitted to the Federal Bureau of Investigation for a criminal history check. If we received your application without a fingerprint card (FD-258), or your fingerprint card was received on or after December 3, 1997, you will need to go to an ASC to be fingerprinted. Do not have your fingerprints taken anywhere else. You will receive a notice that will provide you with information about when and where to go to have your fingerprints taken, and what you will need to bring with you. Please inform the office listed below immediately of any address changes.</p> <p>If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.</p> <p>If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.</p> <p>If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.</p> <p>INS Office Address: US IMMIGRATION AND NATURALIZATION SERVICE PO BOX 87400 LINCOLN NE 68501-</p> <p>INS Customer Service Number: (402) 323-7830</p> <p>REPRESENTATIVE COPY</p> <p>LIN3000428412</p> 			



DEPARTMENT OF HOMELAND SECURITY

U. S. Citizenship and Immigration Service
Chicago District OfficeCOPY
STATUS INQUIRY FORM

DATE: 09/27/04

A-C

CORRESPONDENCE DETAILS

On Behalf of (Applicant):

A Number: 074 406 806

Name: Abu-Naim Eyad
Last First Middle

Mailing Address: 8244 W. 103rd Street

City: Palos Hills State: IL Zip Code: 60465

Daytime Phone Number: (708) 935-0700

Country of Birth: Jordan Date of Birth: 06/23/1971

☐ Check box if author is same as applicant
(DO NOT complete the following if box is checked)

Type of inquiry:

☐ Applicant ☐ Attorney ☐ CBOName: _____
Last First Middle

Firm / Organization: _____

Mailing Address: _____

Suite # or Apt. #: _____

City: _____ State: _____ Zip Code: _____

Phone No.: _____

CORRESPONDENCE INFORMATION☐ Check if telephonic inquiry

Class: GENERAL

Request Type (check all that apply): ☐ Address Change☒ General☐ Received DocumentsType of Application (check one): ☐ Adjustment of Status ☒ Citizenship

FORM FILED (check boxes below that apply):

DATE APPLICATION FILED: 05/2002

☐ I-130☐ I-485☐ I-751☐ I-765☐ I-824☐ N-336☒ N-400☐ N-565☐ N-600☐ N-643☐ Other: _____REQUEST RESCHEDULE FOR (check one): ☐ Interview☐ Oath☒ Fingerprinting

Additional Comments: Please advise as to the status of this case.

*** INQUIRIES MAY BE MADE BY APPLICANTS, BENEFICIARIES, ATTORNEYS, AND ACCREDITED REPRESENTATIVES ONLY. IF YOU ARE AN ATTORNEY, A FORM G-28 MUST BE ATTACHED.

*** CBOs MUST INCLUDE A PRIVACY RELEASE SIGNATURE FROM THE APPLICANT:

Signature: _____

Date: _____

*** MAIL INQUIRIES TO: USCIS, CUSTOMER SERVICE, P.O. BOX 3616, CHICAGO, IL. 60690

U.S. Department of Homeland Security
10 W. Jackson Blvd.
Chicago, IL 60604



U.S. Citizenship
and Immigration
Services

CHI 70/48.2-C

February 19, 2004

JEFFREY A KRIEDEL
20 NORTH CLARK STE. ST. 725
CHICAGO, IL 60602

Re: A074 406 806 - NAIM, EYAD

Dear JEFFREY KRIEDEL,

Thank you for your recent inquiry. All efforts will be made to respond to your inquiry within 90 days of receipt. Depending on the complexity of your inquiry, additional time may be required to obtain the information requested.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Comfort".

Michael M. Comfort
District Director

JEFFREY A. KRIEZELMAN & ASSOCIATES, LTD.
ATTORNEYS AND COUNSELORS AT LAW
20 NORTH CLARK STREET
SUITE 725
CHICAGO, ILLINOIS 60602

TEL.: 312-332-2550
FAX.: 312-782-0158

May 10, 2002

JEFFREY A. KRIEZELMAN
JUSTIN R. BURTON

U.S. Department of Justice
Immigration & Naturalization Service
P.O. Box 87400
Lincoln, NE 68501-7400

COPY

Re: Form N-400 Application for Naturalization
ABU-NAIM, Eyad

Dear Sirs:

Our offices have been retained to assist the above named individual, in the matter of his application for Naturalization.

We have enclosed Form N-400 Application for Naturalization with supporting documentation and applicable fee. We kindly ask that you process this form in your usual manner.

Should you require any further information and/or documentation, please do not hesitate to contact our offices. We thank you for your assistance herein.

Very truly yours,

JEFFREY A. KRIEZELMAN

JAK/ms
Encl.

U.S. Department of Justice
Immigration and Naturalization Service**Notice of Entry of Appearance
as Attorney or Representative**

Appearances - An appearance shall be filed on this form by the attorney or representative appearing in each case. Thereafter, substitution may be permitted upon the written withdrawal of the attorney or representative of record or upon notification of the new attorney or representative. When an appearance is made by a person acting in a representative capacity, his personal appearance or signature shall constitute a representation that under the provisions of this chapter he is authorized and qualified to represent. Further proof of authority to act in a representative capacity may be required. **Availability of Records** - During the time a case is pending, and except as otherwise provided in 8 CFR 103.2(b), a party to a proceeding or his attorney or representative shall be permitted to examine the record of proceeding in a Service office. He may, in conformity with 8 CFR 103.10, obtain copies of Service records or information therefrom and copies of documents or transcripts of evidence furnished by him. Upon request, he/she may, in addition, be loaned a copy of the testimony and exhibits contained in the record of proceeding upon giving his/her receipt for such copies and pledging that it will be surrendered upon final disposition of the case or upon demand. If extra copies of exhibits do not exist, they shall not be furnished free on loan; however, they shall be made available for copying or purchase of copies as provided in 8 CFR 103.10.

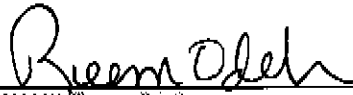
In re: Eyad Abu Naim	Date: 05/05/2008 File No. A074 406 806
-------------------------	---

I hereby enter my appearance as attorney for (or representative of), and at the request of the following named person(s):

Name: Eyad Abu Naim	<input type="checkbox"/> Petitioner <input type="checkbox"/> Beneficiary	<input checked="" type="checkbox"/> Applicant
Address: (Apt. No.) 8244 W. 103rd	(Number & Street) St.	(City) Palos Hills, IL
		(State) 60465
		(Zip Code)
Name:	<input type="checkbox"/> Petitioner <input type="checkbox"/> Beneficiary	<input type="checkbox"/> Applicant
Address: (Apt. No.)	(Number & Street)	(City)
		(State)
		(Zip Code)

Check Applicable Item(s) below:

- ☒ 1. I am an attorney and a member in good standing of the bar of the Supreme Court of the United States or of the highest court of the following State, territory, insular possession, or District of Columbia
Illinois Supreme Court and am not under a court or administrative agency order suspending, enjoining, restraining, disbaring, or otherwise restricting me in practicing law.
Name of Court
- ☐ 2. I am an accredited representative of the following named religious, charitable, social service, or similar organization established in the United States and which is so recognized by the Board:
- ☐ 3. I am associated with _____ the attorney of record previously filed a notice of appearance in this case and my appearance is at his request. (If you check this item, also check item 1 or 2 whichever is appropriate.)
- ☐ 4. Others (Explain Fully.)

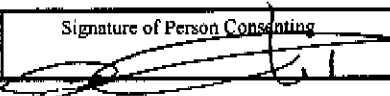
SIGNATURE 	COMPLETE ADDRESS 8 S. Michigan Ave., Suite 3200 Chicago, Illinois 60603
NAME (Type or Print) Reem Odeh	TELEPHONE NUMBER 312-701-3000

PURSUANT TO THE PRIVACY ACT OF 1974, I HEREBY CONSENT TO THE DISCLOSURE TO THE FOLLOWING NAMED ATTORNEY OR REPRESENTATIVE OF ANY RECORD PERTAINING TO ME WHICH APPEARS IN ANY IMMIGRATION AND NATURALIZATION SERVICE SYSTEM OF RECORDS:

Reem H. Odeh

(Name of Attorney or Representative)

THE ABOVE CONSENT TO DISCLOSURE IS IN CONNECTION WITH THE FOLLOWING MATTER:

Name of Person Consenting Eyad Abu Naim	Signature of Person Consenting 	Date 5/5/08
(NOTE: Execution of this box is required under the Privacy Act of 1974 where the person being represented is a citizen of the United States or an alien lawfully admitted for permanent residence.)		

This form may not be used to request records under the Freedom of Information Act or the Privacy Act. The manner of requesting such records is contained in 8 CFR 103.10 and 103.20 Et. SEQ.